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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 5,417,017
Issued : May 23, 1995
Inventor : Vasilios Tountountzis
Title : TERMITE CONTROL
Docket No. : T257.312-0002

Group Art Unit: 3635
Examiner: R. Canfield

**PETITION FOR ACCEPTANCE AND RECORDATION OF PAYMENT
OF A MAINTENANCE FEE FILED PRIOR TO EXPIRATION OF
PATENT
PURSUANT TO 37 C.F.R. §§ 1.182, 1.366, 1.377 and/or 1.378**

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

I CERTIFY THAT THIS PAPER IS BEING SENT BY U.S. MAIL,
FIRST CLASS, TO THE ASSISTANT COMMISSIONER FOR
PATENTS, WASHINGTON, D.C. 20231, THIS 29th DAY OF

August
PATENT ATTORNEY

Sir:

Fee Status

X Small entity status under 37 C.F.R. 1.9 and 1.27 is established by a Statement previously submitted, copy attached.

Petition

Applicant respectfully petitions for acceptance and recordation of payment of a Maintenance Fee filed prior to any expiration of the U.S. Patent 5,417,017. In an Office Action dated March 29, 2000 in Reissue Application No. 09/425,271 for reissue of U.S. Patent 5,417,017, the Examiner stated, "There is no record of the 3.5 year maintenance fee having been paid for U.S. Patent 5,417,017". As stated below, the Maintenance Fee was timely paid on January 20, 1999. Acceptance of the Maintenance Fee, recordation of the maintenance fee toward U.S. Patent 5,417,017, and notice that the patent has not expired are respectfully requested.

Reasons

On January 11, 1999, Applicant received a Maintenance Fee Reminder for U.S. Patent No. 5,417,017. A copy of the Maintenance Fee Reminder is enclosed as Exhibit A.

On January 20, 1999, Applicant sent a check in the amount of \$1,070.00 together with the Maintenance Fee Transmittal Form (PTO - 1536), the Fee Address Indication Form (PTO - 1537), and a return receipt postcard to the Commissioner of Patent and Trademarks, Box M. Fee, Washington, DC 20231. A copy of these documents is attached as Exhibit B. The check included \$940.00 for the Maintenance Fee and \$130.00 for surcharges.

The return postcard was received at the offices of Kinney & Lange, P.A. on February 1, 1999, bearing a "date stamp" indicating receipt at the Status and Entity Branch on January 25, 1999. A copy of the date stamped return postcard is attached as Exhibit C. To Applicant's knowledge, no further correspondence regarding this Maintenance Fee Payment has been received.

As correctly shown on the Fee Address Indication Form, these papers were all intended to be directed toward U.S. Patent No. 5,417,017, which issued May 23, 1995 from U.S. Serial Number 08/040,305. However, the Patent Number shown on the Maintenance Fee Transmittal Form included a typographical error, transposing two of the digits. In particular, the Patent number should have read "5,417,017", but the Maintenance Fee Transmittal Form listed the patent number "5,471,017" next to the correct serial number "08/040,305" and correct date of issue "May 23, 1995". By virtue of the correct serial number "08/040,305" and correct date of issue "May 23, 1995", the typographical transposition error in the patent number is readily identified, and the Maintenance fee payment should have been applied to U.S. Patent No. 5,417,017, which issued May 23, 1995 from U.S. Serial Number 08/040,305.

The Fee Address Indication Form submitted with the Maintenance Fee Transmittal Form had the Patent Number, Serial Number, and Issue Date typed correctly. Further, the Fee Address Indication Form reflected the October, 1998 change of address of Applicant's attorneys, from 625 Fourth Avenue South to 312 South Third Street in Minneapolis, Minnesota.

Unaware of any decision refusing to accept this maintenance fee payment, Applicant believed that the maintenance fee payment had been properly accepted and recorded as directed

toward U.S. Patent No. 5,417,017, which issued May 23, 1995 from U.S. Serial Number 08/040,305. Then, in an Office Action dated March 29, 2000 in Reissue Application No. 09/425,271 for reissue of U.S. Patent 5,417,017, the Examiner stated, "There is no record of the 3.5 year maintenance fee having been paid for U.S. Patent 5,417,017". Applicant obtained the documents of Exhibits A-C from off-site storage to verify that the maintenance fee had been timely paid. Upon reviewing maintenance fee records, Applicant determined that the fee had been timely paid, but for the first time noticed the typographical transposition error on the Maintenance Fee Transmittal Form.

Applicant respectfully requests that the maintenance fee in the amount of \$1,070.00 timely paid on January 20, 1999 and received by the Status and Entity Branch on January 25, 1999 be accepted and recorded toward U.S. Patent No. 5,417,017, which issued May 23, 1995 from U.S. Serial Number 08/040,305. Reinstatement of the patent and notice is respectfully requested. If any papers regarding maintenance fee payments on U.S. Patent No. 5,417,017 were mailed to the 625 Fourth Avenue South address after the January 20, 1999 submission of the Fee Address Indication Form, Applicant further requests that additional copies be mailed to the 312 South Third Street address.

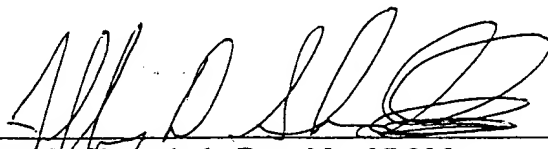
Applicant is uncertain whether this petition should be considered pursuant to 37 C.F.R. §§ 1.182, 1.366, 1.377 and/or 1.378. Applicant is further uncertain what, if any, petition fee is required, as the maintenance fee was timely paid, and the typographical transposition error is readily identifiable through review of the correct serial number "08/040,305" and correct date of issue "May 23, 1995", as well as from the correct data on the accompanying Fee Address Indication Form. The Commissioner is hereby authorized to charge any additional fee required for this petition to Deposit Account No.11-0982, Deposit Account Name: Kinney & Lange, P.A. A duplicate copy of this communication is enclosed.

The Commissioner is invited to contact the undersigned at the telephone number listed below if such a call would in any way facilitate proper crediting of the Maintenance Fee Payment.

Respectfully submitted,

KINNEY & LANGE, P.A.

By: _____


Jeffrey D. Shewchuk, Reg. No. 37,235
THE KINNEY & LANGE BUILDING
312 South Third Street
Minneapolis, MN 55415-1002
Telephone: (612) 339-1863
Fax: (612) 339-6580

JDS/RMR:beh

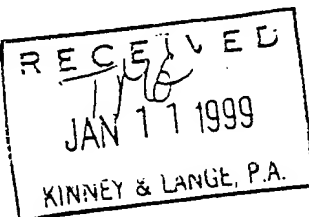


UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

EMERY L. TRACY
KINNEY & LANGE
STE. 1500
625 FOURTH AVENUE SOUTH
MINNEAPOLIS MN 55415-1659

P75M



DATE PRINTED
12/15/98

MAINTENANCE FEE REMINDER

According to the records of the Patent and Trademark Office, the maintenance fee for the Patent(s) listed below, for which the above address is of record as the fee address under CFR 1.363 has not been paid within the six-month period set forth in 37 CFR 1.362(d). THE MAINTENANCE FEE MAY STILL BE PAID WITH THE APPLICABLE SURCHARGE SET FORTH IN 37 CFR 1.20(k) or (l), WITHIN THE SIX-MONTH GRACE PERIOD SET FORTH IN 37 CFR 1.362(e).

Each patent for which the applicable maintenance fee is not paid to the Patent and Trademark Office on or before the date the fee is due or within the grace period, accompanied with the applicable surcharge if paid within the grace period, WILL EXPIRE AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b).

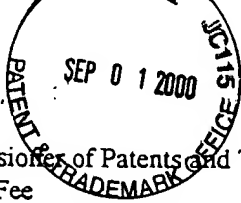
A PATENT EXPIRES AT THE END OF THE SAME DATE (ANNIVERSARY DATE) THE PATENT WAS GRANTED IN THE 4TH, 8TH, OR 12TH YEAR AFTER THE GRANT DEPENDING ON WHICH MAINTENANCE FEE WAS NOT PAID. 37 CFR 1.362(g).

THE PAYMENT DUE AS SET FORTH BELOW IS BASED ON THE SMALL ENTITY STATUS ACCORDING TO CURRENT OFFICE RECORDS.

TIMELY PAYMENT OF THE TOTAL FEE DUE IS REQUIRED IN ORDER TO AVOID EXPIRATION OF THE PATENT. NOTE 37 CFR 1.378.

ATENT UMBER	MNT FEE SUR AMT CHG	U.S. SERIAL NUMBER	PATENT DATE	APPLI- CATION FILE DATE	PAY- SMALL MENT-ENT- YEAR ITY ?	TOTL PAYM DUE	ATTORNEY DOCKET NUMBER
417017	940.130	08040305	5/23/95	3/30/93	04 NO	1070	T257.3122

Ex. A



MAINTENANCE FEE TRANSMITTAL FORM
Form PTO-1536

PATENT

Commissioner of Patents and Trademarks
Box M. Fee
Washington, D.C. 20231

Re: Our File No. T257.312-2

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. XX Checks for the total amount of \$1070.00 for the full payment of the maintenance fee(s) and any necessary surcharge on the following patent is enclosed.
2. The Commissioner is hereby authorized to charge \$ to cover the payment of the fee(s) indicated below to Deposit Account No. 11-0982.
3. XX The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 11-0982.
4. XX A Fee Address Indication Form (PTO-1537) is enclosed.
5. Copies of Small Entity Declaration(s), where appropriate, are enclosed.

*Information required by 37 CFR 1.366(c)(columns 1 & 5)
Information requested under 37 CFR 1.366(d)(columns 2-4 & 6-9)

1		2		3		4		5		6		7		8	
Item	*Patent Number	Fee Code	Maintenance Fee Amount	Surcharge Amount	U.S. Serial Number [06/555,555]	Patent Date mm/dd/yy	Payment Year	Small Entity							
1	5,471,017	183	\$940.00	\$130.00	08/040,305	05/23/95	4	NO							
2															
Columns 3 & 4 Total Payments			\$940.00	\$130.00	Use additional sheets for listing additional patents										
			\$940.00	\$130.00											

Respectfully submitted:

Kinney & Lange, P.A.
(Payor's Name)

000164
(Payor's No., if assigned)

(612) 339-1863
(Payor's Telephone No.)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Commissioner of Patents and Trademarks, Box M. Fee, Washington, D.C. 20231" on 1/20/99.

Paul P. Kempf, Reg. No. 39,727

Name of Person Signing

Signature

(Maintenance Fee Transmittal Form-page 1 of 1)

Ex. B



"FEE ADDRESS" INDICATION FORM

Address to:

Commissioner of Patents and Trademarks
Box M. Fee
Washington, D.C. 20231

Please recognize as the "Fee Address" under the provisions of 37 CFR 1.363 the following address:

Kinney & Lange, P.A.
THE KINNEY & LANGE BUILDING
312 South Third Street
Minneapolis, Minnesota 55415-1002

Payor Number: 000164

in the following listed application(s) or patent(s) for which the issue fee has been paid.

Patent Number (if known)	Serial Number	Patent Date (if known)	U.S. Filing Date
5,417,017	08/040,305	05/23/95	03/30/93

Typed name of person signing: Paul P. Kempf

Signed: 

(check one)

☐ Owner of record

☒ Owner's attorney or agent of record

KINNEY & LANGE
A PROFESSIONAL ASSOCIATION

Comm. of Pa

voice Dat
01-18-99

amt \$ 1,070.00

Receipt is hereby acknowledged in the USPTO of the
following items in relation to payment of
maintnace fee on US Pat #5,471,017:

Amount Paid
1,070.00

- 1) Maintenance Fee Transmittal Form (Form PTO-1536)
- 2) "Fee Address" Indication Form
- 3) Check for \$1070

KAB
T257.312-2
January 20, 1999

requested b

S. BANK M

aid \$ 1,070.00

**KINNEY
& LANGE**
A PROFESSIONAL ASSOCIATION

THE KINNEY & LANGE BUILDING
312 SOUTH 3RD STREET
MINNEAPOLIS, MINNESOTA 55415-1002
(612) 339-1863

US BANK
17-5678-0000

48521

One Thousand Seventy ----- and No/100 Dollars

DATE
01-18-99

AMOUNT
1,070.00

Comm. of Patents and Trademarks.

Y
THE
IDER

J. M. Fairbairn

48521 1091000022160234418244



Receipt is hereby acknowledged in the USPTO of the following items in relation to payment of maintenance fee on US Pat #5,471,017:

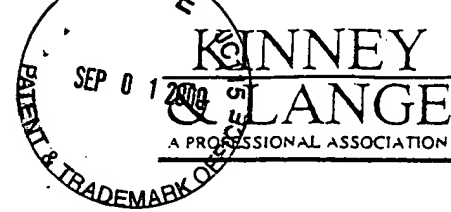
- 1) Maintenance Fee Transmittal Form (Form PTO-1536)
- 2) "Fee Address" Indication Form
- 3) Check for \$1070

KAB

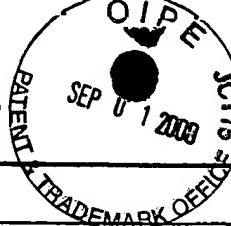
T257.312-2

January 20, 1999

Ex.C



SUITE 1500
FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415-1659
(612) 339-1863



SMALL ENTITY
DECLARATION
SMALL BUSINESS

VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS (SMALL BUSINESS CONCERN)

Attorney Docket No.

T257.312-3

Inventor(s): Vasilios Toutountzis

Title: TERMITE CONTROL

With respect to the invention described in

- ☒ the reissue application filed herewith:
- ☐ application Serial No. _____, filed _____

I. IDENTIFICATION OF DECLARANT AND ANY RIGHTS AS A SMALL ENTITY

I am:

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN
ADDRESS OF CONCERN

TERMIMESH AUSTRALIA PTY LTD
10 Westchester Road,
Malaga, 6062 Western Australia, Australia

The above-identified small business concern qualifies as a small business concern as defined in 13 CFR § 121.12, and reproduced in 37 CFR § 1.9(d), for purposes of paying reduced fees under 35 USC §§ 41(a) and (b).

II. OWNERSHIP OF INVENTION BY DECLARANT

Rights under contract or law remain with or have been conveyed to the above-identified concern. If the rights held are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person who could not be classified as (1) an independent inventor under 37 CFR § 1.9(c) if that person had made the invention, (2) a small business concern under 37 CFR § 1.9(d) or (3) a non-profit organization under 37 CFR § 1.9(e).

(check one)

☒ There is no such person, concern, or organization.

☐ The person, concerns or organizations are listed below:

NAME OF ORGANIZATION _____

ADDRESS OF ORGANIZATION _____

- ☐ Individual
☐ Small Business Concern
☐ Nonprofit Organization

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 CFR § 1.27).

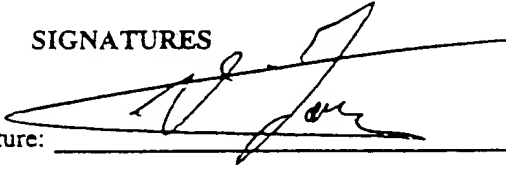
III. ACKNOWLEDGEMENT OF DUTY TO NOTIFY PTO OF STATUS CHANGE

I acknowledge the duty to file, in this application or patent, notification of any change resulting in loss of entitlement to small entity status pursuant to 37 CFR § 1.28(b).

IV. DECLARATION

All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

V. SIGNATURES

Signature:  _____

Date: 16 - MAY 97

Printed Name: Vasilios Toutountzis

Title: Managing Director